

REMARKS

Claims 1-3 and 22 are pending in the present application. Claims 1-3 and 22 are rejected. Claims 4-21, and 23-24 have previously been cancelled.

By way of the present Amendment, claims 1, 3 and 22 are amended, and claim 2 is canceled herein.

In response to the Examiner's request, enclosed please find Applicants' Information Disclosure Statement, Form 1449, and copies of the cited Cunningham and Westley references.

Amendments to the Claims

Claims 1, 3, and 22 have been amended to recite an isolated peptide consisting of CHEASAAQC (SEQ ID NO.: 1) or CAHAQAESC (SEQ ID NO.: 2).

Support for these amendments is found on page 11, lines 14-24 of the specification.

No new matter is added by way of these amendments.

Rejections Under 35 U.S.C. § 112, first paragraph

Claims 1-3 and 22 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. To the extent that this rejection applies to claim 2, this rejection is rendered moot in view of the cancellation of this claim herein. Applicants' response to this rejection therefore applies solely to claims 1, 3, and 22.

The Examiner alleges that there is no proper antecedent basis described in the specification to support the claims as previously amended to incorporate "said variant comprising 1-9 conservative amino acid substitutions." While not necessarily in agreement with the Examiner, but solely in the interest of expediting prosecution of the present application, Applicants have amended the claims to specifically recite a peptide consisting of CHEASAAQC (SEQ ID NO.: 1) or CAHAQAESC (SEQ ID NO.: 2). Applicants respectfully request reconsideration and withdrawal of the rejection.

In addition, the Examiner alleges that the claims represent an invitation for others to discover a representative species because all 9 amino acids are claimed as capable of being conservatively substituted." Applicants respectfully request reconsideration and withdrawal of the rejection in view of the amendments made herein.

Claims 1-3 and 22 also stand rejected under 35 U.S.C. § 112, first paragraph, for lacking enablement. To the extent that this rejection applies to claim 2, this rejection is rendered moot in view of the cancellation of this claim herein. Applicants' response to this rejection therefore applies solely to claim 1, 3, and 22. The Examiner allows that the specification is enabled for an isolated peptide consisting of SEQ ID NO.: 1 or for kits comprising such a peptide. However, the Examiner remains unpersuaded that the specification is enabled for a "CHEC-9 peptide, or variants thereof." While not necessarily in agreement with the Examiner, but solely in the interest of expediting prosecution of the present application, Applicants have amended the claims to specifically recite peptides consisting of CHEASAAQC (SEQ ID NO.: 1) or CAHAQAESC (SEQ ID NO.: 2). Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejections Under 35 U.S.C. § 112, second paragraph

Claims 1-3 and 22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner alleges that it is not possible to have 9 conservative amino acid substitutions, given that SEQ ID NO. 2 has 4 amino acids identical to SEQ ID NO. 1. Applicants submit that the amendments made herein obviate this rejection and respectfully request that the rejection be withdrawn.

Summary

Applicants respectfully submit that all of the Examiner's rejections and objections have either been overcome or rendered moot.

Favorable examination and allowance of the claims is hereby requested.

Respectfully submitted,
TIMOTHY J. CUNNINGHAM, ET AL.

July 11, 2008
(Date)

By: 

Quang D. Nguyen, Ph.D,
Registration No.: 52,066
DRINKER, BIDDLE & REATH, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
Telephone: (215) 988-2720
Facsimile: (215) 988-2757
E-Mail: quang.nguyen@dbr.com
Attorney for Applicants

KH/KD/QDN

sep